

May 16, 2006

The Honorable Eric Cantor
Member, U.S. House of Representatives
5040 Sadler Place, Suite 110
Glen Allen, VA 23060

Dear Congressman Cantor:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to your letter of April 7, 2006, regarding the NRC's ongoing review of an early site permit (ESP) application from Dominion Nuclear North Anna, LLC (Dominion, or the applicant) for its North Anna site. You enclosed correspondence dated March 23, 2006, from your constituent, Mr. Harry Ruth, who represents the Friends of Lake Anna. The March 23, 2006, correspondence listed several concerns about the NRC's review of Dominion's application. Mr. Ruth's correspondence referred to our letter to your office dated March 1, 2006, in which we attempted to address concerns that Mr. Ruth had raised in an earlier letter. Some of the issues Mr. Ruth raised in that earlier letter are repeated in the five areas of concern noted in his March 23, 2006, correspondence. I will address these five areas individually.

First, Mr. Ruth states his belief that the public should be involved in both the environmental impact statement (EIS) and the safety evaluation report (SER) that are prepared for a proposed ESP; specifically, Mr. Ruth stated that the NRC does not provide for public scrutiny of an SER before it is issued. Mr. Ruth indicated that the public's review of an SER is essential. Mr. Ruth went on to state that the population growth projections in the SER and EIS for the area surrounding the North Anna site are inaccurate.

The NRC staff prepares an EIS as part of the Agency's duties under the National Environmental Policy Act of 1969, as amended (NEPA). The North Anna EIS documents the staff's evaluation of the impacts of Dominion's proposed action on the environment. In order to meet its obligations under NEPA, the staff issues a draft EIS for public comment. The staff considers the comments it receives and makes changes, as appropriate, before issuing the final EIS. The staff has not yet issued the final EIS on Dominion's application.

The NRC staff's SER contains a complete evaluation of safety matters resolved by the staff. There is no requirement for the staff to issue a draft SER for public comment. As required by the Atomic Energy Act of 1954, as amended, the NRC offers the public an opportunity to intervene in the proceeding on the application which is held in accordance with the NRC Rules of Practice in Part 2 of Section 10 of the Code of Federal Regulations. Any member of the public may seek to raise contentions regarding safety issues in accordance with the procedures in Part 2.

Regarding Mr. Ruth's assertion that the NRC staff's population growth projections are inaccurate, the NRC has reviewed Dominion's application and has determined, as explained in the SER, that population growth will be gradual. Population density and infrastructure capacity are important contributors to the evacuation time estimate (ETE). The ETE, in turn, is an important part of the applicant's planning for emergency preparedness. Emergency preparedness is a dynamic process. The emergency plans are subject to ongoing review and

testing and to periodic recertification by State and local governments. They are also subject to evaluation by the Department of Homeland Security and the NRC. If additional power plants were to be built at the North Anna site, the existing emergency plans would be revised to account for these new plants; however, since the population growth estimates and road capacities are being considered and resolved in the ESP proceeding, they will be considered resolved in any future proceeding referencing the ESP.

The second issue Mr. Ruth raised is that he believes that the NRC's statement that an ESP does not allow the construction of a new power plant is misleading; he contends that the issuance of an ESP will make the construction of a new nuclear power plant almost inevitable. I assure you this is not true. While an ESP holder can perform some limited activities preliminary to facility construction, one must obtain either a construction permit (CP) or a combined license (COL) before commencing construction of a new nuclear power plant. The issuance of a CP or a COL is an activity separate from the issuance of an ESP and requires separate public notification and a separate public hearing. The fact that an ESP holder may have begun activities preliminary to construction does not affect the staff's decision regarding the issuance of a CP or a COL in any way.

As I stated in my March 1, 2006, letter to you, the activities that are permitted under an ESP are limited and reversible. To ensure that any activities performed are reversible, the applicant filed, as required by 10 CFR 52.17(c), a site redress plan that would be implemented if site preparation activities were performed but the ESP expired before being referenced in either a CP or a COL. The objective of the site redress plan is to ensure that the ESP site would be returned to an environmentally stable and aesthetically acceptable condition suitable for non-nuclear uses consistent with Louisa County zoning requirements.

Mr. Ruth's third area of concern was with what he saw as the NRC's characterization of most public environmental concerns as "small" in the draft EIS. To support this view he stated his belief that the existing roads in the area are unable to accommodate either the construction of a new power plant or the evacuation of a large number of people.

The NRC seriously considers public concerns. In the final EIS on Dominion's application, the NRC will identify and address comments received during the public comment period on the draft EIS. As set forth in the draft EIS, the NRC staff evaluated the impact of construction on local transportation infrastructure and determined that planned upgrades and traffic management plans would reduce temporary construction transportation impacts. The draft EIS states that impacts could be moderate in some areas that do not have planned upgrades. In evaluating environmental impacts of Dominion's proposal, the NRC need not conclude that all potential environmental effects related to traffic congestion can be eliminated or mitigated before issuing an ESP. The NRC must, however, disclose such effects and known mitigation measures in the EIS. Insofar as this concern relates to emergency planning, the NRC staff has evaluated whether or not the site characteristics related to transportation, including road capacity, could pose a significant impediment to the applicant's development of emergency plans. The NRC is aware that as population in the area grows new infrastructure may have to be built in order to accommodate that population. That infrastructure would need to be considered as a part of the emergency preparedness process. As I stated earlier, this is a dynamic process and will involve the ongoing efforts of Dominion as well as those of the local, State, and Federal governments.

Fourth, Mr. Ruth stated a concern in regard to the transparency of the NRC's regulatory process; specifically, Mr. Ruth requested the following change to the process for issuing SERs and EISs: The NRC should be required to state its rationale for the disposition of issues raised by concerned citizens, the applicant, and other government agencies, including State, Federal, and local government agencies.

During the course of an ESP application review, the NRC staff does consult with other Federal and State agencies. In the course of its review of the North Anna ESP application, the NRC staff consulted with the United States Fish and Wildlife Service and the State Historic Preservation Officer, and met with County officials and officials from the Virginia Department of Environmental Quality and the Virginia Department of Game and Inland Fisheries. The NRC staff also held a "scoping" meeting with the public on the EIS. The information we received from the public and other Federal and State agencies was considered in the evaluation of impacts performed in the draft EIS. The draft EIS states the rationale for the NRC staff's conclusions, which were reached after consideration of the input from the public, Federal, State, and local government officials. The NRC staff will also consider comments received on the draft EIS. Changes to the EIS will be made, if appropriate, and the comments will be addressed in the staff's final EIS. With respect to the safety review, the SER sets forth the NRC staff's rationale for its conclusions in detail. While some of the technical issues discussed in the SER are complex, the staff took care to explain fully the reasons for its conclusions.

To make our regulatory process more transparent, the NRC welcomes members of the public to meetings between the NRC staff and the applicant except in cases when sensitive information will be discussed. The NRC also makes most correspondence between the staff and the applicant available to the public online through our document management system.

Fifth, Mr. Ruth stated a concern relating to the NRC's planned issuance of supplements to the SER and EIS. Mr. Ruth states that the cooling system changes described by Dominion in its January 13, 2006, ESP application supplement are of such significance that the NRC staff should issue a new and complete SER and EIS. Mr. Ruth stated further that issuing supplements to the SER and EIS will only cause confusion.

Mr. Ruth is correct that the changes described by Dominion in their January 13, 2006, letter are significant. The proposed changes warrant NRC staff reevaluation of certain aspects of site hydrology and meteorology, among other things. The changes, however, do not warrant a complete reevaluation of the application. The NRC will make every effort to ensure that the supplemental draft EIS and supplemental SER are available to the public in a timely manner.

The NRC staff is aware that its most important job is to ensure adequate protection of the public health and safety. We try to do this in a way that is efficient and open. The ESP application review process allows ample opportunity for public involvement and we encourage such involvement. I welcome any new information or insights that your constituents may have.

The Honorable Eric Cantor

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I trust that this has addressed your constituent's concerns. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

/RA/

Luis A. Reyes
Executive Director
for Operations

The Honorable Eric Cantor

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I trust that this has addressed your constituent's concerns. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

/RA/

Luis A. Reyes
Executive Director
for Operations

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